

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

DANA NELL DIXON

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:12CV00031-JMV

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

DEFENDANT

FINAL JUDGMENT

This cause is before the court on the plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying her claim for a Period of Disability and Disability Insurance Benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the court's oral ruling this day following the parties' oral argument, the decision of the Commissioner of Social Security is reversed because (1) the claimant was prejudiced by the ALJ's failure to recontact her treating physician, Dr. Charles Ozborn, before deciding to assign no weight to his opinion, (2) medical evidence related to the claimant's right foot, including a 2009 MRI report and progress notes of Dr. Ozborn's June 2009 examination of the claimant, belie the ALJ's determination that Dr. Ozborn's medical source opinion is not supported by "objective evidentiary findings," and (3) nothing in the record indicates the State

agency medical consultants, upon whom the ALJ relied, considered the 2009 MRI report regarding the claimant's right foot. On remand, the Appeals Council is directed to remand this case to the ALJ. The ALJ shall attempt to recontact Dr. Ozborn for the purpose of clarifying his opinion or obtaining additional evidence regarding the claimant's ability to do work related activities during the relevant period. The ALJ shall then consider Dr. Ozborn's supplemented opinion in accordance with the appropriate regulations concerning the evaluation of medical evidence. Finally, the ALJ shall conduct any additional proceedings—not inconsistent with this order—and reconsider his decision in light of all of the evidence in the record.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the decision of the Commissioner of Social Security is **REVERSED** and the case is **REMANDED** for further proceedings.

This, the 3rd day of October, 2012.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE